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ATTORNEY DOCKET NO. APPLICATION NO. FILING DATE FIRST NAMED INVENTOR CONFIRMATION NO 10/618,784 010121-9930-00 7332 07/14/2003 Ken A. Bradenbaugh

23409 7590 07/26/2004

MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202

EXAMINER CAMPBELL, THOR S

ART UNIT PAPER NUMBER

3742 DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.158(a). In no event, however, may a reply be timely filled after 30 (c) MONTH'S from the making date of this communication. If NO period for reply is specified above, the maximum statutory period will apply and will reput 50 (c) days with the considered timely. If NO period for reply is a specified above, the maximum statutory period will apply and will reput 50 (c) MONTH'S from the making date of this communication. Falure to reply with the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply record by the Office of the intercentional after the maxing date of this communication, even if timely fred, may reduce any example plant term adjustment. See 37 CFR 1.704(b): Status 1) Responsive to communication(s) filled on							-11 11-
## Examiner Art Unit 3742 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reby the timely filled when the provision of the may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reby the timely filled when the Statistical Provision of the major sheet SIX (6) MONTHS from the maining date of this communication. - If the period for reby searched above is less than thiny (50) days, a reply when the statistical proteins and the SIX (6) MONTHS from the maining date of this communication. - If the period for reby searched period for reduced period for received by which the statistical period mainter size of the statistic property within the state of readed period for reduced period for readed period for			Applicat	on No.	Applicant(s)	//	11///
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2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152) 6) Other:	☐ Information Disclo	osure Statement(s) (PTO-1449 or PT	•	5) Notice of Information		O-152)	

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-31, drawn to a water heater and temperature sensor usable therewith, classified in class 392, subclass 449.
- II. Claims 32-35, drawn to a method of sensing temperature, classified in class 392, subclass 441.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the temperatue sensor and water heater can be used together in a method of sensing temperature that does not require the determination of a tank thermal profile.

A telephone call was made to Sheldon Wolfe on 7/24/04 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Art Unit: 3742

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thor S. Campbell whose telephone number is 703-306-9042. The examiner can normally be reached on Tue-Fri 5:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 703-305-5766. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TSC 7/24/04

THOR CAMPBELL